

AMENDED IN SENATE JUNE 16, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

Assembly Concurrent Resolution

No. 101

Introduced by Assembly Member Jones-Sawyer

February 19, 2014

Assembly Concurrent Resolution No. 101—Relative to pawnbrokers and secondhand dealers.

LEGISLATIVE COUNSEL’S DIGEST

ACR 101, as amended, Jones-Sawyer. Pawnbrokers and secondhand dealers: Internet transactions.

This measure would request the Department of Justice to convene meetings in 2014 with representatives from law enforcement, prosecutors, ~~and~~ the secondhand dealer and pawnbroker industry, *and interested members of the public* to determine the changes to existing law that would (1) allow California pawnbrokers and secondhand dealers to fairly compete with out-of-state internet pawnbrokers, (2) keep available to law enforcement merchandise pawned over the Internet that would otherwise go out-of-state and not be reported or held for inspection, and (3) protect California consumers transacting pawn loans over the Internet from higher interest rates and fees than those permitted in California.

Fiscal committee: yes.

- 1 WHEREAS, In the past decade, a new business model has
- 2 emerged in other states called “Internet pawn.” Operators in other
- 3 less regulated states are aggressively and openly operating in
- 4 California over the Internet, but are not in compliance with the

1 laws governing California pawnbrokers and secondhand dealers;
2 and

3 WHEREAS, Existing law requires that California pawnbrokers
4 and secondhand dealers report transactions involving tangible
5 personal property using a statewide, uniform electronic reporting
6 system developed by the Department of Justice; and

7 WHEREAS, Although pawnbrokers and secondhand dealers
8 are required to make these electronic reports, existing law poses
9 several barriers to electronic pawn loans in California; and

10 WHEREAS, Existing law requires the report made by a
11 pawnbroker or secondhand dealer to include a legible fingerprint
12 taken from the intended seller or pledger. Existing law further
13 requires a pawnbroker or secondhand dealer to retain the reported
14 tangible personal property for 30 days for possible inspection by
15 law enforcement. Out-of-state pawnbrokers are not required to
16 collect a fingerprint, nor are they subject to a 30-day hold of the
17 property; and

18 WHEREAS, As a result, a significant amount of reportable
19 merchandise pawned over the Internet that would otherwise be
20 reported to the Department of Justice goes unreported and is not
21 held for law enforcement; and

22 WHEREAS, This puts California pawnbrokers and secondhand
23 dealers at a competitive disadvantage. In addition, merchandise
24 pawned over the Internet escapes detection by law enforcement
25 and is physically absent from the state as soon as the transaction
26 is completed; and

27 WHEREAS, California has been a leader in consumer protection
28 for decades; and

29 WHEREAS, California pawnbrokers ~~and secondhand dealers~~
30 provide loans at the lowest interest rates in the United States.
31 California law caps interest rates and fees applicable to these
32 transactions at very low levels. In other states, the interest rates
33 are either capped at much higher levels or are completely
34 unregulated; and

35 WHEREAS, There are impediments to a licensed pawnbroker
36 or secondhand dealer in California transacting business solely on
37 the Internet. Unlike any other lending model in California, the
38 physical presence of the borrower is required in order to obtain
39 the legally required fingerprint; and

1 WHEREAS, The convenience of transacting a pawn loan over
2 the Internet from one's home is proving to be a powerful lure to
3 Californians who would ordinarily transact that loan at a physical
4 pawn shop. As the world becomes more dependent on the Internet,
5 secondhand dealers and pawnbrokers in California will lose a
6 greater market share to out-of-state Internet pawn; Californians
7 who choose that form of pawn will also be subject to higher interest
8 rates and fees. In addition, law enforcement will lose a greater
9 percentage of tangible personal property reports and will lose the
10 ability to inspect and seize property needed for criminal
11 investigation and prosecution; and

12 WHEREAS, Good public policy demands that the Legislature
13 address this inequity that is so harmful to California business,
14 California consumers, and law enforcement; now, therefore, be it

15 *Resolved by the Assembly of the State of California, the Senate*
16 *thereof concurring*, That the Legislature requests the Department
17 of Justice to convene meetings in 2014 with representatives from
18 law enforcement, prosecutors, ~~and~~ the secondhand dealer and
19 pawnbroker industry, *and interested members of the public* to
20 determine the changes to existing law that would (1) allow
21 California pawnbrokers and secondhand dealers to fairly compete
22 with out-of-state Internet pawnbrokers, (2) keep available to law
23 enforcement merchandise pawned over the Internet that would
24 otherwise go out-of-state and not be reported or held, and (3)
25 protect California consumers transacting pawn loans over the
26 Internet from higher interest rates and fees than those permitted
27 in California; and be it further

28 *Resolved*, The Department of Justice is requested to report its
29 findings and recommendations for statutory change to the
30 Legislature by January 1, 2015; and be it further

31 *Resolved*, That the Chief Clerk of the Assembly transmit copies
32 of this resolution to the Department of Justice and to the author
33 for appropriate distribution.